

JUDICIAL COUNCIL
OF THE NINTH CIRCUIT

JUL 06 2010

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

IN RE COMPLAINT OF
JUDICIAL MISCONDUCT

Nos. 09-90214, 09-90215 and
10-90000

ORDER

KOZINSKI, Chief Judge:

Complainant alleges that a district judge and magistrate judge made improper substantive and procedural rulings in his civil case. These charges relate directly to the merits of the judges' rulings and must therefore be dismissed. See 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-Conduct Rule 11(c)(1)(B); In re Charge of Judicial Misconduct, 685 F.2d 1226, 1227 (9th Cir. Jud. Council 1982).

Complainant also alleges that the magistrate judge retaliated against him and removed documents from the case file. But complainant hasn't provided any objectively verifiable proof of retaliation or that the judge tampered with the file. Cf. In re Complaint of Judicial Misconduct, 583 F.3d 598, 598 (9th Cir. Jud. Council 2009). Adverse rulings alone are not proof of retaliation. See id. Because there is no evidence that misconduct occurred, these charges must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

Complainant's charges must be dismissed to the extent they allege

misconduct by counsel. The misconduct complaint procedure applies only to allegations against federal judges. Judicial-Conduct Rule 4.

A previous misconduct complaint filed by complainant against three other judges was dismissed because the allegations were conclusory and merits-related. Complainant is cautioned that “[a] complainant who has filed repetitive, harassing, or frivolous complaints, or has otherwise abused the complaint procedure, may be restricted from filing further complaints.” Judicial-Conduct Rule 10(a); see also In re Complaint of Judicial Misconduct, 552 F.3d 1146, 1148 (9th Cir. Jud. Council 2009). Complainant used pejorative and abusive language to describe the subject judge. Any further complaints that use inappropriate language will be summarily dismissed.

DISMISSED.